

REMARKS

The present amendment is in response to the Office action dated February 22, 2007, where the Examiner has rejected claims 1 – 4, 6 – 11, and 13 – 15. In the present amendment, claims 1, 8, and 15 have been amended. Accordingly, claims 1 – 4, 6 – 11, and 13 – 15 are pending in the present application with claims 1, 8 and 15 being the independent claims. Reconsideration and allowance of pending claims 1 – 4, 6 – 11, and 13 – 15 in view of the amendments and the following remarks are respectfully requested.

A. Rejection of Claims 1 – 4, 6 – 11, and 13-14 Under 35 USC §102

Claims 1 – 4, 6 – 11, and 13-14 stand rejected under section 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0173326 (“Rosen”). Applicant has amended claims 1 and 8. Applicant respectfully requests that the amendments to claims 1 and 8 be entered and a notice of allowance be issued to amended claims 1 and 8 for at least the following reasons.

First, Rosen does not teach or describe or suggest a “push-to-talk initialization request” (claim 1) or a “push-to-talk announce message” (claim 8) from a calling handset, because the current claims define such a request as identifying a recipient handset, which currently has no communicative links with the calling handset. Second, Rosen does not teach, describe or suggest that as a result of the “push-to-talk initialization request” (claim 1) or a “push-to-talk announce message” (claim 8) a communicative link is established between the calling handset and the recipient, where none existed before.

While Rosen discusses a “push to talk key.” (See, Rosen, paragraph 36). The pressing of the push to talk key initiates a process whereby communications occur between two devices that already have some communicative links established. For example, Rosen is directed to a method for sending a “floor-control request,” which helps reduce wakeup latency in a group communication network. (See, Rosen, paragraph 10). A floor request only takes place in the context of two devices that are already communicatively coupled in some manner and one device is merely requesting the floor or a “transmission privilege.” Therefore, any action in Rosen starts from a different state than the state that is presently claimed.

In one aspect, Rosen causes the target communication devices to “re-establish” a traffic channel. (See, Rosen, paragraph 12). It is clear from Figure 2 of Rosen, that the traffic channel “media traffic 214” is but one of a plurality of channels (or communicative links) between a sending and receiving device, including an NBS media signaling channel 212 and an SIP channel 210. Therefore, even if Rosen re-establishes a traffic channel, it is done so in a scenario that does not cover the present claims because the NBS media signaling channel 212 and the SIP channel 210 are already established communicative links between the two devices. In the present claims, however, there is no communicative link at all between the sending and receiving devices. As such, the “wakeup” procedure between devices having existing communicative links as in Rosen, does not read on the present claims.

As such, Applicant asserts that the independent claims 1 and 8 are not anticipated by Rosen. Thus, Applicant respectfully requests that the Examiner issue a notice of allowance for the pending independent claims 1 and 8 and their respective dependent claims 2-4, 6-7, 9-11, and 13-14.

B. Rejection of Claim 15 Under 35 USC §103

In the Office Action, claim 15 has been rejected under 35 U.S.C. 103(a) as obvious with respect to Rosen in view of U.S. Patent Application No. 2004/0057405 ("Black"). The Examiner states that Rosen teaches all of the limitations of claim 15, except:

converting the reverse link channel push-to-talk initialization request to an internet protocol push-to-talk initialization request message; sending the internet protocol push-to-talk initialization request message to a push-to-talk server; creating an internet protocol push-to-talk announce message corresponding to the internet protocol push-to-talk initialization request; and sending the internet protocol push-to-talk announce message to a plurality of base stations.

The Examiner further states that Black teaches these limitations. The Examiner states that the combination of the two references makes the present claims obvious. This rejection is traversed as follows.

A claim is unpatentable if the differences between it and the cited references would have been obvious at the time of the invention. As stated in MPEP § 2143, there are three requirements to establish a *prima facie* case of obviousness.

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the cited reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the cited references, and not based on Applicant's disclosure.

1. Suggestion or Motivation to Combine

In the Office Action, no motivation has been supplied for combining the references. The subject matter of the claims is related to establishing a communicative link between a calling handset and a recipient handset, which currently having no communicative links.

Rosen teaches that a group of communication devices defines a closed net (See, Rosen, paragraph 24). According to Rosen, when a net member wants to transmit information other net members, the user presses the push-to-talk button, which sends a floor-control request to obtain the transmission privilege from a communications manager. (See, Rosen, paragraph 32.) Black and Rosen are directed to similar subject matter. Even if Black is additionally able to provide voice and data over a channel, the two disclosures operate in the same environment.

For example, Figure 3 in Black is the same Figure as Figure 2 in Rosen. In those Figures, it is clear that a "request" in Rosen and Black is directed to a communications manager that is handling an established push-to-talk call amongst the net members. Thus, the push-to-talk call according to Rosen or Black occurs in an environment where there are existing communicative links between the net members. (See, the SIP channel and the NBS media signaling channel in both Black and Rosen).

As claim 15 presently states, there are no communication links at all between the calling and the recipient handsets. Neither Black nor Rosen describe a scenario where a first initial communicative link can be established (e.g., the calling handset can find the recipient handset), for example by sending an announce message to a plurality of base stations, one of which might receive a response from the recipient handset. Therefore, even if Rosen is combined with Black, the proposed combination still cannot establish

an initial communicative link where none existed before. Therefore, there would be no suggestion or motivation to combine Black and Rosen to achieve the present claims.

2. Reasonable Expectation of Success

Further, the Examiner has still not demonstrated that the modification of the cited the cited reference points to the reasonable expectation of success in the present claims, which is the second requirement of the obviousness analysis. If Black and Rosen were in fact capable of being combined, they would not work properly because if Black and Rosen were subjected to the environment presently claimed (e.g., no communicative links exist initially) they could never establish the initial link.

For example, Rosen and Black describe an arbitration process by which a network member can obtain the transmission privilege. (See, paragraph 28 of Rosen, for example). The arbitration process determines whether a device with already established communicative links can be granted or denied a transmission request. The arbitration scheme takes into account such things as priority levels assigned, number of prior unsuccessful attempts, etc. (See, paragraph 28 of Rosen, for example). If Rosen or Black were to perform this arbitration in the context of the current claim 15 it would malfunction, because the arbitration scheme teaches no way to actually find the recipient handset. It merely teaches a way to use a channel to a device where the sender already knows the location of the device. Therefore, the arbitration scheme in which a sending device seeks to access the floor would not be reasonably expected to succeed in finding a device with no current communicative links to the sender.

3. Combined References Must Teach All Claim Limitations

With respect to the third prong of an obviousness analysis, the combination of the references does not yield all the limitations of the present claims. First, Rosen and

Black do not teach or describe or suggest a “push-to-talk initialization request” (claim 15) from a calling handset, because the current claims define such a request as identifying a recipient handset, which currently has no communicative links with the calling handset. Second, Rosen and Black do not teach or describe or suggest that as a result of the “push-to-talk initialization request” a communicative link is established between the calling handset and the recipient.

As previously discussed with respect to the rejections of claims 1 and 8 under 35 U.S.C. section 102, Rosen causes the target communication devices to “re-establish” a traffic channel. (See, Rosen, paragraph 12). It is clear from Figure 2 of Rosen, that the traffic channel “media traffic 214” is but one of a plurality of channels (or communicative links) between a sending and receiving device, including an NBS media signaling channel 212 and an SIP channel 210. Therefore, even if Rosen re-establishes a traffic channel and Black sends Internet enabled data over the channel, they do so in a scenario that does not cover the present claims because the NBS media signaling channel 212 and the SIP channel 210 are already established links between the two devices. In the present claims, however, there is no communicative link at all between the sending and receiving devices.

As such, the “wakeup” procedure between devices having existing communicative links as in Rosen and Black, does not read on the present claims. Thus, the combination of Rosen and Black still fails to suggest claim 15. Since the combination of references does not include all the limitations of claim 15, the Applicant requests that the rejection be withdrawn.

C. Conclusion

For all the foregoing reasons, allowance of claims 1 – 4, 6 – 11, and 13 – 15 pending in the present application is respectfully requested. Payment of the RCE fee accompanies the present submission. No other fees are believed due. If necessary, applicant requests, under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above-identified application and to charge the fees for a large entity under 37 CFR 1.17(a). The Director is authorized to charge any additional fee(s) or any underpayment of fee(s) or credit any overpayment(s) to Deposit Account No. 50-3001 of Kyocera Wireless Corp.

Respectfully Submitted,

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